

Amendment No. 1 to HB2979

Watson
Signature of Sponsor

AMEND Senate Bill No. 2789*

House Bill No. 2979

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 29-26-121, is amended by adding the following:

(f)

(1) Upon the filing of any “healthcare liability action,” as defined in Section 29-26-101 (a)(1), the named defendant(s) may petition the court for a qualified protective order allowing the defendant(s) and their attorneys the right to obtain protected health information during interviews, outside the presence of claimant or claimant’s counsel, with the relevant patient’s treating “healthcare providers,” as defined by Section 29-26-101(a)(2). Such petition shall be granted under the following conditions:

(A) The petition must identify the treating healthcare provider(s) for whom the defendant(s) seek a qualified protective order to conduct an interview;

(B) The claimant may file an objection seeking to limit or prohibit the defendant(s) or the defendant(s)’ counsel from conducting the interviews, which may be granted only upon good cause shown that a treating healthcare provider does not possess relevant information as defined by the Tennessee Rules of Civil Procedure; and

(C) The qualified protective order shall expressly limit the dissemination of any protected health information to the litigation pending before the court.

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(2) Any disclosure of protected health information by a health care provider in response to a court order under this section shall be deemed a permissible disclosure under Tennessee law, any Tennessee statute or rule of common law notwithstanding.

(3) Nothing in this part shall be construed as restricting in any way, the right of a defendant or defendant's counsel from conducting interviews outside the presence of claimant or claimant's counsel with the defendant's own present or former employees, partners, or owners concerning a health care liability action.

SECTION 2. This act shall take effect July 1, 2012, and shall apply to all healthcare liability actions commenced on or after July 1, 2012, the public welfare requiring it.